

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER**, on March 29, 2005
at 3:15 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edward B. Butcher, Chairman (R)
Rep. Carol Lambert, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Bob Bergren (D)
Rep. Gary Branae (D)
Rep. Kevin T. Furey (D)
Rep. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Jim Keane (D)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Diane Rice (R)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Karl Waitschies (R)
Rep. Jeanne Windham (D)
Rep. Brady Wiseman (D)

Members Excused: Rep. Jonathan Windy Boy, Vice Chairman (D)
Rep. Dan Villa (D)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Krista Lee Evans, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 461, 3/8/2005; HB 766, 3/14/2005
Executive Action: SB 320, SB 353

HEARING ON SB 461

SPONSOR: SEN. DONALD STEINBEISSER, SD 19, SIDNEY

Opening Statement by Sponsor:

SEN. DONALD STEINBEISSER opened the hearing on **SB 461**, attaching a collar to one wolf in every pack that is active near livestock or population centers. He said that money for this program comes from the Federal Wolf Management budget and is split among Montana, Idaho and Wyoming. Montana's portion is \$320,000. Funds for actual wolf pack control is separately managed.

Proponents' Testimony:

Bob Gilbert, Montana Woolgrowers Association, said this bill is in the best interest of the wolf pack and allows the ability to take care of depredations by finding the pack very quickly.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 4}

Nancy Schlepp, Montana Farm Bureau, explained the bill and said it was brought at Farm Bureau's request. She asked for support.
{Tape: 1; Side: A; Approx. Time Counter: 4 - 6.4}

Barbara Broberg, Montana Women Involved in Farm Economics (WIFE), said they support SB 461.

John Bloomquist, Montana Stockgrowers Association, said this has picked up on one of the promises made to livestock producers that there would be notification as the wolf packs grew and dispersed.
{Tape: 1; Side: A; Approx. Time Counter: 6.4 - 7.3}

Mark Bridges, Executive Officer, Board of Livestock, said that the Department of Livestock supports this legislation. They operate a cooperative predator program with the United States Department of Agriculture Wildlife Services and will cooperate and collaborate with other agencies in implementing this program.

Jay Bodner, Montana Association State Grazing Districts, said that depredations will occur as wolf populations expand. He stated that they need every tool they can to curb depredation and track down the wolves that are causing problems.

Don Allen, Western Environmental Trade Association (WETA), said they support the bill and that it is a commonsense ingredient to something that needs to happen.

Opponents' Testimony: None.

{Tape: 1; Side: A; Approx. Time Counter: 7.3 - 9.2}

Informational Testimony:

Chris Smith, Chief of Staff, Montana Fish, Wildlife and Parks, submitted and read his written testimony.

EXHIBIT(agh66a01)

Larry Handegaard, Director, United States Department of Agriculture Wildlife Services Program, said they have been cooperating with the Montana Department of Livestock, United States Fish and Wildlife Service (USFWS), and Montana Fish, Wildlife and Parks (FWP) in administering the wolf program up until now. They have found that controlling wolves can be difficult and the use of radio collars has made a big difference. He stated that he was available for questions.

{Tape: 1; Side: A; Approx. Time Counter: 9.2 - 12}

Questions from Committee Members and Responses:

REP. LAMBERT asked for an estimate of the cost of the program.

Mr. Smith said there is a fiscal note with the bill and emphasized that only Federal funds would be used for this. They estimate it will cost \$25,000/year to do the collaring. He stated that it will cost about \$5,000 to place and maintain collars in a wolf pack. They have 15 packs currently "on the air." He said about 20 packs will meet the bill's requirements and 5 of those packs will have to be collared every year due to dispersal of the collared wolf, natural mortality of the collared wolf, or control (removal) of that collared wolf.

REP. RICE said that many of her constituents had trouble obtaining receivers in the past. She noted that recently FWP was picking them up and asked for more information. **Mr. Handegaard** said he was aware that some of the receivers were being picked up. He said the receivers were originally provided to ranchers by the USFWS and they are gathering them up to see who has them.

REP. RICE asked which department the receivers belong to and how many there were. **Mr. Handegaard** said they belong to USFWS. He did not know how many receivers there were.

REP. RICE asked if FWP would have control over the receivers since they were picking them up. **Mr. Handegaard** said, "Correct." He thought they would be transferred to FWP.

REP. RICE asked how many wolves there are. **Mr. Handegaard** said that Chris Smith has a report with the figures on it but he does not have that information with him.

{Tape: 1; Side: A; Approx. Time Counter: 12 - 17}

REP. RICE asked **SEN. STEINBEISSER** if he would mind an amendment saying that wolves will be collared where depredation is chronic or likely, or the transmitters would be issued at the request of the ranchers who were affected. **SEN. STEINBEISSER** said he had no objection to that.

REP. KEANE asked Ms. Evans about Line 28 on Page 1 and Line 3 on Page 2 and asked what department this references. **Ms. Evans** said that is FWP.

REP. FUREY asked what the cost of each of the units that the rancher uses would be. **Mr. Handegaard** said that the receivers currently in use cost about \$600/unit.

{Tape: 1; Side: A; Approx. Time Counter: 17 - 19.3}

REP. MALCOLM asked how valuable the radio collars are in tracking down a wolf and how much time is saved. **Mr. Handegaard** said that wolves often travel 20 miles overnight and don't always return to an area. If the wolf has a radio collar they can send up an airplane and quickly find where the pack is. He said if they need to remove some of the pack they can call up a helicopter and remove them. Collars have made a big difference in their effectiveness, the amount of resources it takes to address a complaint and how quickly they can solve the problem.

REP. MALCOLM said it is critical to get the right wolf at the right time and asked if this is the only way it can be done. **Mr. Handegaard** stated it is difficult to solve the problem with ground methods; i.e., traps or snares and noted that additional losses are likely to occur if the wolves are not located quickly.

REP. RICE asked how many receivers there are and what is being done with the receivers. **Mr. Smith** was not sure how many receivers there are. He said they are negotiating an agreement with the USFWS that will authorize FWP to be their designated agent in the southern portion of Montana where wolves are considered experimental and non-essential. He stated that new 10J rules in effect allow more flexibility; the new agreement would transfer all USFWS responsibility to FWP, and all USFWS equipment will be transferred to FWP. All the receivers are being gathered as part of the inventory process. Receivers will be made available as-needed to ranchers.

REP. RICE asked if FWP would be responsible for doing the collaring as well. **Mr. Smith** affirmed and said that the only remaining presence that USFWS will have in Montana will be Ed Bangs, the recovery coordinator, and his focus will be preparing for the de-listing. He will have no field presence; that will be taken over by FWP staff.

REP. RICE asked how the \$350,000 in Federal funds and the recent receipt of another \$250,000 would be spent. **Mr. Smith** said the funding will support five field staff positions and the FWP coordinator in Helena who will run the wolf monitoring program.

REP. RICE asked what the coordinator's name was. **Mr. Smith** said it was Carolyn Sime.

REP. RICE asked who to call when they have a pack they want to have collared. **Mr. Smith** said that in REP. RICE's area, they would call the Region 3 office and talk to Mike Roth. They also have staff in Kalispell, Dillon, Bozeman and Red Lodge.

{Tape: 1; Side: A; Approx. Time Counter: 19.3 - 27.4}

Closing by Sponsor:

SEN. STEINBEISSER said this is a good bill and asked for support.
{Tape: 1; Side: A; Approx. Time Counter: 27.4 - 28}

(Note: REPS. JONES and FUREY left the room.)

HEARING ON HB 766

SPONSOR: **REP. BRADY WISEMAN, HD 65, BOZEMAN**

Opening Statement by Sponsor:

REP. BRADY WISEMAN opened the hearing on **HB 766**, a bill to revise laws governing noxious weed management on state trust land. He said that a 2003 audit disclosed the lack of a comprehensive plan to manage weeds on state lands and are lacking a good process to ensure that lessees are complying. He said that compliance is not very well monitored and priorities are not well identified.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.8}

Proponents' Testimony:

Janet Ellis, Montana Audubon, passed out copies of the cover of the Montana Weed Management Plan that was revised January 2005, a copy of Page 2-8 of that Plan and "Annual Weed Fees for School Trust Land by Acre." She stated there are 459,000 acres of weed infested school trust land and it will cost \$2 million/year to bring the infestation down to 5%. She said this bill has funding to treat about 35,000 to 40,000 acres annually; only 7-8% of the estimated 459,000 weed infested school trust land. She noted that the class of lessees has to be all treated the same, so this was placed on all leases. She said they would have liked to include recreational users, but had trouble with technicalities.

EXHIBIT(agh66a02)

{Tape: 1; Side: B; Approx. Time Counter: 6.8 - 11.7}

Kathy Bramer, representing Superintendent of Public Instruction, Linda McCullough, said she is also a member of the land board. She stated they want to ensure good stewardship on school trust lands and have the weed issue addressed. She urged support.

Phil Johnson, Helena Citizen, said that his background in education was in vegetation science and he has been involved in the weed arena about 20 years. He looked on this as an opportunity and not a means of punishing agriculture producers. He said that he recognizes what weeds are doing to the state and the level of problems that exist on State lands. He said, "This is a necessary cost and it pays dividends in the long run. If we wait another 2-4 years, the problem is only going to be worse."

{Tape: 1; Side: B; Approx. Time Counter: 11.7 - 17.3}

Brian Kahn, Artemis Common Ground, submitted written testimony.
[EXHIBIT](#) (agh66a03)

Opponents' Testimony:

Nancy Schlepp, Montana Farm Bureau, said they support Section 1 and 2, but they have a problem with the \$.10 fee in Section 3. She said it is already the lessee's responsibility to be spraying weeds or doing weed control and they don't deserve to have a fee on top of it. She noted that this bill would benefit people that don't do their own weed control.

John Bloomquist, Montana Stockgrowers Association, stated that failure to manage noxious weeds has always been a reason for Department of Natural Resources (DNRC) to cancel a lease and they already have that ability. The issue is that a fee is being proposed. He said people already have the obligation and are already managing their weeds. He voiced objection to the administration of the fee. He said that funds go to DNRC and Department of Agriculture implements those funds and takes administrative costs of 12% out.

{Tape: 1; Side: B; Approx. Time Counter: 17.3 - 21}

Dave Bodner, Montana Association of State Grazing Districts, said there are 27 state grazing districts that encompass 10 million acres in eastern Montana. He said that any person connected to the land realizes that noxious weeds present one of the greatest threats to our range lands in Montana. The reason there isn't a higher percentage of weeds on state lands is because current leaseholders are taking care of the land. He said they are also concerned about fees, but if there is a problem with a lessee they need to focus on the area and not run something across the

board. He agreed that recreationalists are being missed and something needs to be done to include them. He did not think that the fee proposal was the right way to go.

Gail Abercrombie, Executive Director, Montana Petroleum

Association, said she is also testifying on behalf of people who take State Leases on speculation that some beneficial activity may come along. She stated that those people don't ever set foot on that land. If there is some operation on the land, the operator is obligated to control, manage and eliminate any noxious weeds. She cited the unfairness of the fee issue to the person that takes a subsurface lease and is being told to pay a fee for the surface they never set foot on. She asked if they would charge that person a fee if there was an air quality issue above that land. She noted that if there is a subsurface lease and someone is leasing the surface for grazing, a double fee will be paid. She felt it is not fair and equitable to tax subsurface lessees for weed control.

Don Allen, Western Environmental Trade Association (WETA), stated that those involved in multiple use issues are aware of the need to make sure the weed problem is managed. He mentioned that snowmobilers and some of the trail-vehicle rider groups have organized voluntary programs where they are controlling noxious weeds. He pointed out that most people at the hearing have said the issue is handled in the contracts.

{Tape: 1; Side: B; Approx. Time Counter: 21 - 28}

Informational Testimony:

Kevin Chappell, Agriculture and Grazing Management Bureau Chief, DNRC, responded to Sections 1 and 2 of the bill and said that the Department has already put some of those things into place. He stated that each of their area offices has developed weed management plans and the Department is committed to do that irregardless of this legislation. They will be doing one statewide weed management plan to pull all the regional agency plans together and have hired a weed coordinator.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 2.1}

Questions from Committee Members and Responses:

CHAIRMAN BUTCHER asked **REP. WISEMAN** which weeds he is most concerned about. **REP. WISEMAN** stated he was concerned about the infestation of noxious weeds that is reducing the revenues from state lands. He was not concerned about specific species. He said the Committee has heard previous testimony that weeds are a statewide problem and are in every county; that there soon could be infestations on state lands.

REP. LAMBERT asked what the per acre weed control costs were.

Ms. Ellis said it costs \$25-\$30/acre according to the Weed Management Plan for treatment of noxious weeds. He stressed the Plan is not specific to state trust lands and covers all land.

(Note: REP. VILLA returned to the Committee room.)

REP. LAMBERT asked REP. WISEMAN if he had ever leased any state lands. **REP. WISEMAN** said that he had not.

REP. LAMBERT noted REP. WISEMAN's statement that the state is losing money on school trust land and asked if there were figures to back that up. **REP. WISEMAN** said the audit suggests that about 9% of state lands are infested with noxious weeds and also suggests that a 10% infestation reduces the number of animal units that acre can support by 10%. He said this is a direct corollary between weed infestations and revenues from state trust lands.

{Tape: 2; Side: A; Approx. Time Counter: 2.1 - 7.9}

REP. LAMBERT asked where she could get written documentation that said it decreased the amount of money they could get per lease.

REP. WISEMAN said he would copy the page for REP. LAMBERT.

REP. HEINERT asked about bringing in-state and out-of-state recreational and casual users into the picture to have them help pay for the program. **REP. WISEMAN** said they did not go into that before the bill was written but have found that the only way to collect money from recreationalists would be through conservation licenses. He will check on having hunters and fishermen contribute to the program before executive action takes place.

{Tape: 2; Side: A; Approx. Time Counter: 7.9 - 12.5}

REP. HEINERT said that hunters and fishermen aren't the only ones using those lands, and suggested developing a new license requiring hikers, hunters and fishermen and anyone that uses state lands to pay a small fee. **REP. WISEMAN** responded that they need to research what is possible under the title of this bill. He stated that most state land users are hunters and fishermen. He said he has found most hikers use trails on forest service land and this bill concerns state land only. He was not averse to an amendment.

REP. BERGRUM asked Ms. Evans to clarify what a state lands permit would involve. **Ms. Evans** said that a recreational use permit is needed for all purposes except hunting, fishing and trapping. The conservation license had a \$1 or \$1.50 fee added to it last session and if you buy the conservation license you can hunt, fish and trap on state lands provided you have the other permit.

REP. WAITSCHIES asked if there was a way to address the mineral lessees who have no surface rights. **REP. WISEMAN** proposed that the 50 acre fee could be changed to a per acre fee or that subsurface lessees could be exempted from the bill.

{Tape: 2; Side: A; Approx. Time Counter: 12.5 - 16.5}

Closing by Sponsor:

REP. WISEMAN said that state land managers typically set foot on state land parcels about once every ten years and they manage 5 million acres. He asked for a DO PASS.

(Note: the Committee broke for 10 minutes: REP. FUREY returned and REP. WINDY BOY arrived.)

EXECUTIVE ACTION ON SB 320

Motion: **REP. LAMBERT** moved that SB 320 BE ADOPTED.

Motion: **REP. PETERSON** moved that AMENDMENT SB032001 BE ADOPTED.
[EXHIBIT](#)(agh66a04)

Discussion:

REP. PETERSON explained that the Amendment raises the fee. He said this was discussed at the Hearing.

Motion/Vote: **REP. PETERSON CALLED THE QUESTION ON AMENDMENT SB032001.** Motion carried unanimously 18-0 by voice vote.

Motion: **REP. PETERSON** moved that SB 320 BE ADOPTED AS AMENDED.

Motion: **REP. PETERSON** moved that AMENDMENT SB32003 BE ADOPTED.
[EXHIBIT](#)(agh66a05)

{Tape: 2; Side: A; Approx. Time Counter: 16.5 - 19.5}

Discussion:

REP. PETERSON said this Amendment was requested by the Sponsor and asked Ms. Evans to explain. A copy of a March 17, 2005, press release was passed around to enter into the record.

[EXHIBIT](#)(agh66a06)

Ms. Evans said she was the bill drafter and information for the bill was copied out of Federal law. She stated there were some errors and omissions and these amendments take care of that.

Motion/Vote: REP. KEANE CALLED THE QUESTION ON AMENDMENT SB032003. Motion carried unanimously 18-0 by voice vote.

Motion: REP. PETERSON moved that SB 320 BE ADOPTED AS AMENDED.

(Note: REP. GRINDE left the room.)

Discussion:

Without objection, REP. PETERSON asked to discuss fees with Richard Oppen.

{Tape: 2; Side: A; Approx. Time Counter: 19.5 - 23}

REP. PETERSON asked for confirmation that fees would be returned to feed yards. Richard Oppen, Director, Department of Environmental Quality, said they would not charge different fees to different people and they will make sure that the fees are uniform. He said that reimbursements will be made to those who sent their fees in early.

REP. PETERSON asked when reimbursement would be made. Mr. Oppen stated it will be done in a timely manner after the bill passes.

REP. PETERSON asked if the Department is okay with the Amendments. Mr. Oppen said they have worked closely with the bill's Sponsor and they will now sponsor the bill as amended.

Vote: Motion failed 10-10 by roll call vote with REP. ANDERSEN, REP. BUTCHER, REP. HEINERT, REP. JONES, REP. LAMBERT, REP. MALCOLM, REP. PETERSON, REP. RICE, REP. ROSS, and REP. WAITSCHIES voting aye. REP. GRINDE and REP. JONES voted by proxy.

EXECUTIVE ACTION ON SB 353

Motion: REP. WINDHAM moved that SB 353 BE ADOPTED.

{Tape: 2; Side: A; Approx. Time Counter: 23 - 28}

Motion: REP. WINDHAM moved that AMENDMENT SB035303 BE ADOPTED. [EXHIBIT](#) (agh66a07)

Discussion:

Ms. Evans explained the Amendment. She said that everyone was okay with it.

Motion/Vote: REP. LAMBERT CALLED THE QUESTION ON AMENDMENT SB035303. Motion passed 18-0 by voice vote.

Motion: REP. WINDHAM moved that SB 353 BE ADOPTED AS AMENDED.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 3.5}

Discussion:

CHAIRMAN BUTCHER asked for more details as to whether the excess buffalo would be sent to the Tribes.

REP. PETERSON asked whether the animals would have to go through the entire quarantine process before they go to the Tribes. He said that quarantining is costly and it may take up to two years to get through the facility. He was not against it, but felt it was not a practical solution and asked how it would be paid for.

CHAIRMAN BUTCHER asked if an acceptable option might be for the Tribes to pay for the quarantine. **REP. WINDY BOY** said they would need to be reimbursed.

REP. VILLA asked if any money was available. **Ms. Evans** stated that Fish, Wildlife and Parks has already received some funding to conduct the Environmental Impact Statement (EIS) and potentially start constructing the quarantine facility.

{Tape: 2; Side: B; Approx. Time Counter: 3.5 - 4.8}

REP. FUREY said they probably wouldn't have to build a huge quarantine facility as soon as they start the program. He felt it would be a slow process and they would start with a small facility and expand as they can.

CHAIRMAN BUTCHER noted that buffalo facilities have to be very strong and are not cheap.

REP. HEINERT referred to the available funding from FWP and asked if the funds would cover holding the buffalo for two years while the quarantine is completed. **Ms. Evans** said the money is Federal funding that is available because of the Federal Inter-Agency Bison Management Plan and they are just starting the process.

{Tape: 2; Side: B; Approx. Time Counter: 4.8 - 7.8}

CHAIRMAN BUTCHER asked whether there would be any impact to the State General Fund. **Ms. Evans** said currently FWP has Federal funding and this body would have to approve any other spending.

REP. WINDHAM said REP. PETERSON was correct about the length of the quarantine. She felt that the bill is ambiguous and discussed why she felt it wasn't clear whether it would cost the state any money.

{Tape: 2; Side: B; Approx. Time Counter: 7.8 - 8.7}

(Note: REP. RICE and REP. VILLA left the meeting.)

REP. MALCOLM explained that the Inter-Agency Bison Management Team (IABMT) is trying to formulate a solution for the bison. He felt that as legislators they should stay out of that and let them alone to do the groundwork. He said that legislators don't have the expertise to get involved.

REP. PETERSON said IABMT has been meeting for several years, that all the State agencies and Federal agencies are part of that group, and that Tribal members have been monitoring it. He felt the idea of transferring bison to Tribes is a good idea once they get through the quarantine issue. He said everyone is trying to work together and it would only be a mistake to pass this bill without their close involvement.

{Tape: 2; Side: B; Approx. Time Counter: 8.9 - 12.4}

REP. WINDY BOY said that some Tribes; i.e., Crow Tribe, Salish-Kootenai Tribe, Fort Belknap Tribe and Fort Peck Tribe that have existing bison herds. It would be up to them to come forward.

REP. FUREY pointed out that the bill has a lot of "may" language, but not a lot of "must" or "shall." He said they would not be telling anyone what to do if the bill was passed, they would just be giving more options.

REP. WAITSCHIES asked if another bill, SB 320 would have to pass first, in order to build this large of a quarantine facility.

Ms. Evans acknowledged that it probably would be considered a concentrated animal feeding operation (CAFO) with that many animals in a concentrated area, and it could possibly have an individual permit done for it.

{Tape: 2; Side: B; Approx. Time Counter: 12.4 - 15.1}

Vote: Motion failed 9-11 by roll call vote with **REP. BERGREN**, **REP. BRANAE**, **REP. FUREY**, **REP. GRINDE**, **REP. SMALL-EASTMAN**, **REP. VILLA**, **REP. WINDHAM**, **REP. WINDY BOY**, and **REP. WISEMAN** voting aye. **REPS. GRINDE**, **JONES**, **RICE**, and **VILLA** voted by proxy.

Motion/Vote: **REP. PETERSON** moved that SB 353 BE TABLED AND THE VOTE REVERSED. Motion passed unanimously by voice vote. SB 353 was TABLED 11-9 with **REP. BERGREN**, **REP. BRANAE**, **REP. FUREY**, **REP. GRINDE**, **REP. SMALL-EASTMAN**, **REP. VILLA**, **REP. WINDHAM**, **REP. WINDY BOY**, and **REP. WISEMAN** voting no. **REPS. GRINDE**, **JONES**, **RICE**, and **VILLA** voted by proxy.

CHAIRMAN BUTCHER adjourned the meeting.

{Tape: 2; Side: B; Approx. Time Counter: 15.1 - 16.7}

ADJOURNMENT

Adjournment: 5:35 P.M.

REP. EDWARD B. BUTCHER, Chairman

LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT ([agh66aad0.PDF](#))